



Anti-Bias Based Policing & Immigration

February 8, 2022

Presented By: Nicole Bennett and Rim Dhaouadi



Legal Disclaimer

The materials presented are for informational purposes only and not for the purpose of providing legal advice



Center for Immigrants' Rights Clinic





Goals

Goal 1

- Basic terminology & key federal agencies

Goal 2

- U & T visas and the role of law enforcement

Goal 3

- Revised SCPD Anti-Bias Based Policing Policy



Immigration 101



Immigration Law as Civil Law

Fong Yue Ting v. United States, (1893)

"[T]he order of deportation is not a punishment for crime. It is not a banishment, in the sense in which that word is often applied to the expulsion of a citizen from his country by way of punishment."

Arizona v. United States, (2012)

"Removal is a civil, not criminal, matter. A principal feature of the removal system is the broad discretion exercised by immigration officials."



Why Terminology Matters

- Terminology shapes the perception, attitudes and behaviors of individuals.
- Consider:
 - **Undocumented vs. Illegal**
 - **Noncitizen vs. "Alien"**



<https://www.boundless.com/blog/coronavirus-immigration/>



Immigration 101: Terminology

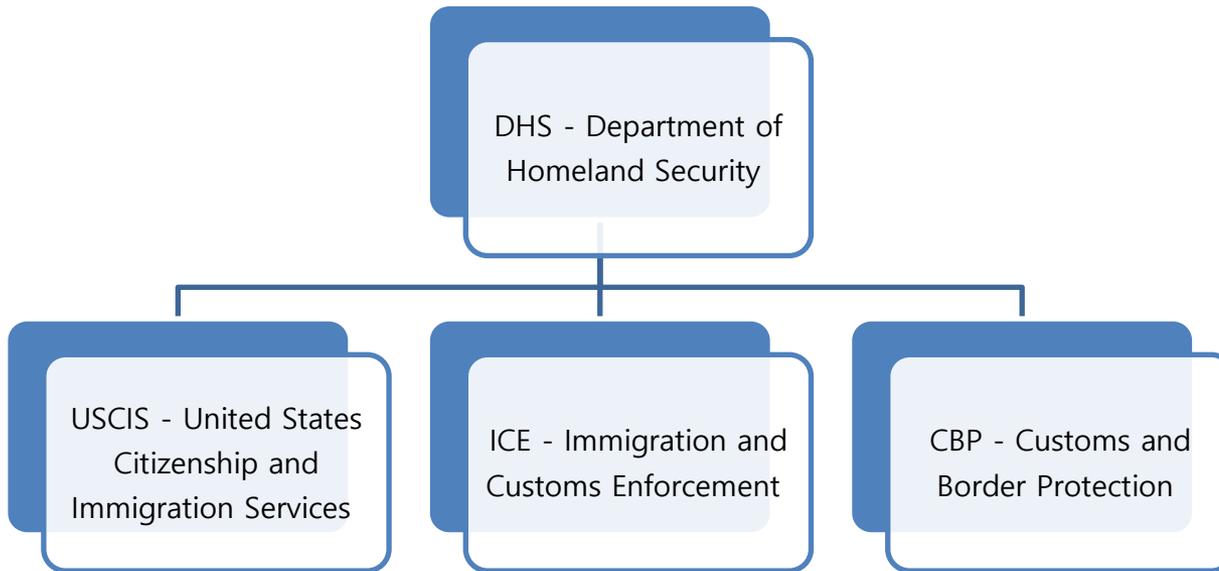
- **Immigrants:** People who come to the U.S. on a permanent basis.
- **Non-immigrants:** Foreign born individuals who enter the U.S. on a temporary basis.
- **Lawful Permanent Residents:** Individuals accorded the privilege of residing permanently in the United States.
- **Noncitizens:** An individual who is not a citizen or national of the United States.
- **Undocumented:** A noncitizen without immigration status.
 - Includes those who enter the U.S. without papers **AND** those who enter the U.S. with a valid status who later lose that status.

Sources: INA § 101(a)(3), (15), (20)

See e.g.: [Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize our Immigration System](#)



Immigration 101: Key Federal Agencies





U & T Visas and the Law Enforcement Certification



The U Visa: INA § 101(a)(15)(U)

- **U-Visa:** A nonimmigrant category allowing victims of certain crimes to remain in the United States.
- **USCIS** is the federal agency that grants the U nonimmigrant status.
- **Requirements:**
 - 1) Non-citizen victim of qualifying crime(s);
 - 2) Crime took place in the U.S.;
 - 3) Victim suffered substantial physical or mental abuse as a result of the criminal activity;
 - 4) Victim possesses information about the crime; and
 - 5) Victim has been helpful **or** is likely to be helpful in the future in the investigation **or** prosecution of the crime(s).



Qualifying Crimes- INA 101(a)(15)(U)(iii)

Abduction	Murder
Abusive Sexual Contact	Obstruction of Justice
Blackmail	Peonage
Domestic Violence	Perjury
Extortion	Prostitution
False Imprisonment	Rape
Felonious Assault	Sexual Assault
Female Genital Mutilation	Sexual Exploitation
Fraud in Foreign Labor Contracting	Slave Trade
Hostage	Stalking
Incest	Torture
Involuntary Servitude	Trafficking
Kidnapping	Witness Tampering
Manslaughter	Unlawful Criminal Restraint



Example #1

- Julia, an undocumented woman, was standing outside the Pattee Library when a man approached her and attempted to assault her. Before he could harm her, a University police officer intervened. Does this count as a qualifying crime?



Example #2

- Sonya is an undocumented woman. A doctor in her area sexually abused her and many undocumented women patients. Sonya is participating in a criminal investigation of the doctor for sexual assault. Is Sonya eligible for a U visa?



Example #3

- Esteban entered the United States five years ago. Seven years ago, he was kidnapped and held hostage in Colombia before his family paid to ransom him. Esteban has not been the victim of a crime since entering the United States. Is Esteban eligible for a U visa?



Example #4

- Michael is an international student on an F-1 visa (nonimmigrant status). Veronica is his girlfriend and undocumented. Veronica has suffered abuse from Michael and wants to report the abuse to law enforcement but is afraid to do so. Might Veronica be eligible for a U visa?



What is Considered Being Helpful?

- Did victim call the police?
- Did victim file a police report?
- Did victim let police take pictures/ provide evidence to police?
- Did victim help police identify who did the crime?
- Did victim talk to a prosecutor?
- Did victim testify in court?

*Any of these would be considered being helpful.



The T Visa: INA § 101(a)(15)(T)

- **T-visa:** A nonimmigrant category allowing human trafficking victims to remain and work temporarily in the United States.
- **USCIS** is the federal agency that grants T nonimmigrant status.
- **Requirements:**
 - 1) Victim of severe form of trafficking;
 - 2) Is physically present in the U.S. on account of such trafficking;
 - 3) Has assisted with any reasonable request during the investigation or prosecution; and
 - 4) Victim would suffer extreme hardship involving unusual and severe harm upon removal.



Severe Form of Trafficking

- Under U.S. federal law, “**severe forms of trafficking in persons**” includes both **sex** trafficking and **labor** trafficking.
- **Sex trafficking**: in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age (22 USC § 7102).
- **Labor trafficking**: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery, (22 USC § 7102).



Example

Sofia came to the US with her aunt when she was 17, to escape her abusive father. Sofia also agreed to babysit her aunt's children and clean the house during her free time. In return, her aunt would pay her.

Once in the US, Sofia's aunt confiscated her passport, and she was never allowed to leave the house alone. Her aunt never paid her for the work she was doing. When Sofia started complaining, her aunt got angry and refused to pay her until her debt (for the travel expenses) was fully paid to her aunt. Her aunt also threatened to report her to the federal authorities if she complained again or told anyone.

Sofia escaped from her aunt's house recently and went to the neighbors who put her in contact with a nonprofit specialized in immigration. She was advised to report her case to the local police department.

Is Sofia eligible for a T visa?



Why are U & T Visas Helpful for Law Enforcement Officers?

- They encourage victims to report crimes and work with law enforcement.
- They serve as tools for law enforcement to help eliminate crime in local communities.



<https://kdat.com/will-we-shake-hands-after-this/>



The Revised Anti-Bias Based Policing & Immigration Policy



Revised Anti-Bias Based Policing & Immigration Policy

- Joint work between SCPD and CIRC to incorporate an immigration section to this policy
- It encourages noncitizens to utilize police services
- It sets a general practice not to ask about or collect information about immigration status
- It outlines the specific role of law enforcement in U & T visa procedures



Policy Section 1.8.4 - Immigration

- Guidance [to police officers] on providing services to all persons in our community, **including noncitizens**
- The SCPD is **committed to supporting immigrant victims of all crimes, including but not limited to** domestic violence, sexual assault, and child abuse
- [Defines] a noncitizen as any person who is not a citizen or national of the United States, **whether his or her status is lawful, unlawful, temporary or permanent**



Policy Section 1.8.4A

Framework of Services for Immigrant Community

- Some noncitizens do not take advantage of services provided by the SCPD **because of fear ... This makes noncitizens more likely to be victimized**
- As a general practice, the SCPD **does not ask or collect information about immigration status...or report noncitizens** to the federal government, except as **necessary to an ongoing criminal investigation, or in the case where there is a criminal warrant signed by a judge**



Policy Section 1.8.4A Framework of Services for Immigrant Community

- Immigration is a civil matter, not a criminal one
- The SCPD will preserve the confidentiality of all information regarding noncitizens to the extent permitted by law



Policy Section 1.8.4B Protections for Immigrant Victims and the Role of Law Enforcement

- State College Police Officers may encounter immigrant victims of trafficking or crimes who may be eligible for U or T visas
- Officers shall assist with law enforcement certification for qualifying victims...of crime or trafficking



Role of Law Enforcement in U & T Visas (Appendix 1.8.4B)

1. Assess whether the applicant qualifies;
2. Review the instructions for completing a certification (U visa) or declaration (T visa);
3. Contact the prosecutor assigned to the case to make necessary verifications;
4. Complete request in a timely manner;
5. Document all decisions made in the case file; and
6. Include a copy of completed certification or declaration in the case file.



Resources

1. Center for Immigrants' Rights Clinic at Penn State Law
2. Centre Safe (Formerly County Women's Resource Center)'s Civil Legal Representation Project
3. The Pennsylvania Immigration Resource Center (Immigrant Survivors Project)
4. Immigrant Legal Resource Center (ILRC)
5. ASISTA
6. DHS U Visa Resource Guide
7. DHS T Visa Resource Guide



Thank You!

Questions?